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10 UNITED STATES DISTRICT COURT  
11  
12 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
13  
14 (San Francisco Division)

15 INTERNATIONAL BROTHERHOOD OF  
16 ELECTRICAL WORKERS DISTRICT 9  
17 PENSION PLAN; et al.,

18 Plaintiffs,

19 vs.

20 WHISPER COMMUNICATIONS, INC., a  
21 California Corporation.

22 Defendant.

Case No. C-08-4999 SI

**[proposed] ORDER GRANTING  
DEFAULT JUDGMENT AGAINST  
DEFENDANT WHISPER  
COMMUNICATIONS, INC.**

[F.R.C.P. Rule 55(b)]

Date: March 20, 2009  
Time: 9:00 a.m.  
Courtroom: 10, 19<sup>th</sup> Floor  
Location: 450 Golden Gate Ave.  
San Francisco, CA 94102  
Judge: Hon. Susan Illston

1 This matter came on regularly for hearing on Friday, March 20, 2009 at 9:00 a.m., , in  
2 Courtroom 10 on the 19th Floor at the U.S. District Courthouse, 450 Golden Gate Avenue  
3 located in San Francisco, California 94102. Plaintiffs INTERNATIONAL BROTHERHOOD  
4 OF ELECTRICAL WORKERS DISTRICT 9 PENSION PLAN; NORTHERN CALIFORNIA-  
5 NORTHERN NEVADA SOUND & COMMUNICATION DISTRICT No. 9 HEALTH &  
6 WELFARE TRUST FUND; NORTHERN CALIFORNIA-NORTHERN NEVADA SOUND &  
7 COMMUNICATION DISTRICT No. 9 APPRENTICESHIP & TRAINING COMMITTEE; and,  
8 JOHN O'ROURKE, as Trustee of the Plaintiff Trusts (hereinafter collectively referred to as the  
9 "Plaintiffs", "Trusts" or "Funds") were represented by Mr. Benjamin K. Lunch. Defendant  
10 failed to appear.

11  
12 Having considered the argument of Mr. Lunch, the Notice, the Points and Authorities, the  
13 submitted Declarations of Mr. De Nardo, Ms. Stephenson and the entire file in this action, and  
14  
15 GOOD CAUSE APPEARING,

16 IT IS ORDERED THAT Plaintiffs Motion for Default Judgment Against Defendant  
17 WHISPER COMMUNICATIONS, INC. is hereby GRANTED. Judgment is entered against  
18 Defendant WHISPER COMMUNICATIONS, INC. in the amount of \$74,825.30 plus \$12.56 per  
19 day after January 31, 2009 until judgment is entered.

20 IT IS FURTHER ORDERED THAT Defendant WHISPER COMMUNICATIONS, INC.  
21 produce the missing monthly transmittals (Employer's Report of Contributions) for the reporting  
22 periods from August 2008 to the present and remit payment of any principal, liquidated damages  
23 and interest owed thereupon.

24  
25 IT IS SO ORDERED.

26 Dated: 3/20/09



27 UNITED STATES DISTRICT COURT JUDGE

PROOF OF SERVICE BY MAIL

I, the undersigned, declare:

I am employed in the City and County of San Francisco, State of California. I am over the age of 18 years and not a party to the within action; my business address is 44 Montgomery Street, Suite 2080, San Francisco, California 94104. On February 5, 2009, I served the within:

**[proposed] ORDER GRANTING DEFAULT JUDGMENT AGAINST DEFENDANT WHISPER COMMUNICATIONS, INC.**

on the parties in said cause following our business practice, with which I am readily familiar.

On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service in a sealed envelope with postage fully prepaid. I placed a true copy of the within document enclosed in a sealed envelope with first class postage thereon fully prepaid for collection and deposit on the date shown below in the United States mail at San Francisco, California addressed as follows:

Whisper Communications, Inc.  
5482 Gateway Plaza Drive  
Benicia, CA 94510

I declare under the penalty of perjury that the foregoing is true and correct, and that this declaration was executed on February 5, 2009, at San Francisco, California.

\_\_\_\_\_/s/\_\_\_\_\_  
Ben Lunch